IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

Writ Petition No. 2971 / 1994

Petitioner : Ganesh Rao Ransingh, son of R.V.Ransingh, aged about 47 years, working as Sub Engineer in Municipal Council Dhamtari, resident of Marathapara Dhamtari.

Versus

Respondents : 1. Director, Urban Administration, Madhya Pradesh, Bhopal.

2. Joint Director, Urban Administration, Bhopal, M.P.

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... WP 2971/94 **सन्** **200**

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

14-09-2006

Shri B.D. Guru, learned counsel for the petitioner.

Shri Arun Sao, learned Govt. Advocate for the State.

Heard finally with the consent of the parties.

Order dictated as follows :

ORAL ORDER

The petitioner, who was working as a Sub Engineer in Municipal Council, Dhamtari, District Raipur, has challenged the validity of his transfer order dated 26-7-1994 (Annexure – A), whereby he was transferred from Municipal Council, Dhamtari, District Raipur to Municipal Council, Arang, District Raipur.

(2) The allegations are that the petitioner was an employee of Municipal Council, Dhamtari, who was appointed as a Sub Engineer in the said establishment in the year 1980. Para 5.2 of the petition would state that the Municipal Council, Dhamtari was a Class (AA) Municipality whereas the Municipal Council, Arang was a Class (C) Municipality. It is alleged that ordinarily an employee of AA Class Municipality is not transferred to a lower grade Municipal Council. The petitioner has also made allegations, vide para 5.3 of the petition, regarding his personal difficulties against the said order of transfer. The ground taken by the

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

petitioner is that an employee borne in the local cadre of Municipality is the permanent employee of that Municipality and as such his transfer to another Municipality without having his consent may cause a prejudice to his service career as he would loose his seniority.

(3) Learned counsel appearing for the petitioner submits that this petition was filed in the year 1994 in the High Court of Madhya Pradesh, Jabalpur, and the impugned order of transfer, so far as it relates to the petitioner, was stayed saying that "if the petitioner has not been relieved from Municipal Council, Dhamtari and no one in his place has joined at Dhamtari, the operation of the impugned transfer order, in so far as the petitioner alone is concerned, shall remain stayed until further orders". However, learned counsel for the petitioner is not in a position to state as to whether the petitioner could avail the benefit of stay order granted by the High Court of Madhya Pradesh or not. Be that as it may.

(4) The law in relation to consideration of orders of transfer is now well settled. The Apex Court while dealing with the matter of ***Kendriya Vidya Sanghatan vs. Damodar Prasad Pandey (2004 AIR SCW Pg.5563)*** referring to the various decisions has observed vide para 4 as follows :

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"Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or visited by mala fide or infraction of any prescribed norms of principles governing the transfer (*See Ambani Kanta Ray vs. State of Orissa, 1995 (Suppl) 4 SCC 169*). Unless the order of transfer is vitiated by mala fide or is made in violation of operative guidelines, the Court cannot interfere with it. (*See Union of India vs. S.L. Abbas, AIR 1993 SC 2444*). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by mala fide or is made in violation of operative any guidelines or rules the Courts should not ordinarily interfere with it. In *Union of India & Others vs. Janardan Debanath & anr. (2004) 4 SCC 245* it was observed as follows :

> "No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to another is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/ management, as against such orders passed in the interest of administrative exigencies of the service concerned. This

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position was highlighted by this Court in *National Hydroelectric Power Corpn. Ltd. vs. Shri Bhagwan, (2001) 8 SCC 574."*

(5) In the absence of pleadings of arbitrariness, mala fide or violation of any operative guidelines or the rules, as in the present case, I am not inclined to interfere with the order of transfer of the petitioner on the above principles. The petition has no merits and the same is dismissed.

Sd/-
Sunil Kumar Sinha
Judge

Gowri

(पीछे देखिये)